

WISCONSIN LOCAL GOVERNMENT TELECOMMUNICATIONS COALITION

Waukesha County Department of Administration

515 W. Moreland Boulevard

Waukesha, WI 53188-2428

Attn: Mr. Michael Biagioli

05-65

June 29, 2005

RECEIVED

JUN 29 2005

**Federal Communications Commission
Office of the Secretary**

Marlene Dortch
Secretary, FCC
445 12th St. SW
Washington, D.C. 20554

Re: Comments on SBC / AT&T Merger

Dear Secretary Dortch:

The Wisconsin Local Government Telecommunications Coalition ("WTCO") is a coalition of local government entities throughout Wisconsin, formed in January 2004, in an attempt to remedy the unequal balance of power between large telecom providers and individual local governments. WTCO was formed with two purposes: to improve government knowledge and expertise in telecommunications purchasing and technology implementation, and to provide local government with increased negotiating strength in telecommunications purchasing and contract administration. The large need for an organization like WTCO is best illustrated by its growth—in 18 months WTCO has grown to include 28 members, including many of the largest counties in the state, many cities, small towns and villages, and several school boards. Enclosed is a list of the WTCO membership (APPENDIX A).

Unfortunately, the existing telecom marketplace does not provide individual local governments with adequate bargaining strength, much less adequate choice, in purchasing telecommunications products and services. As it exists currently, the marketplace provides a de facto monopoly for providers like SBC in those areas in which SBC is an ILEC.

Many Wisconsin local governments have experienced and suffered from SBC's monopolistic behavior for the past several years as SBC has overcharged, misbilled, and used questionable business tactics in dealing with Wisconsin local government customers. In fact, sixteen of WTCO's twenty-eight members currently have potential claims against SBC totaling several million dollars for billing errors, discriminatory pricing, and deceptive billing practices. A summary of these claims is enclosed as APPENDIX B. These claims are a direct result of the unchallenged power and influence of SBC's monopolistic position in the marketplace.

Since October of 2004, WTCO has repeatedly attempted to resolve these billing errors and claims with SBC. However, throughout this process, SBC has refused to acknowledge the concerns of local governments through the coalition, and has ignored multiple meeting requests. SBC has refused to meet with WTCO and its local government members under the guise of repeated requests for more information. Please note the list of communications with SBC attempting to set up a meeting enclosed as APPENDIX C. Though it has been WTCO's primary

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desire to resolve this matter in an amicable, negotiated fashion, unfortunately, it is clear SBC does not share that same desire. SBC's apparent disregard for the concerns of some of its best and largest local government customers is disturbing.

SBC's ability to ignore these requests of local government customers and overcharge taxpayers millions of dollars is evidence of its monopolistic behavior in Wisconsin. Perhaps more disturbingly, in addition to refusing to address the concerns of their local government customers, SBC is actively lobbying and working to be deregulated in other telecom markets.

Given the current size and strength of SBC already, the proposed merger with AT&T could have dangerous consequences. Until SBC modifies its monopolistic behavior, treats local governments like valued consumers, and attempts to remedy the overcharges it has imposed, a merger of this magnitude should be put on hold. Furthermore, in the interest of protecting telecom consumers and the vitality of the telecommunications and technology market, we ask that the FCC review and analyze SBC's current business tactics and customer complaint resolution processes.

If you would like additional information regarding WTCO, or its experiences with SBC, please contact me at (262) 970-4728 or WTCO Secretary and General Counsel Charles Mulcahy at (414) 978-5340. WTCO and its Wisconsin local government members appreciate your consideration of this matter and thank you for your close scrutiny of this proposed merger.

Sincerely,



Michael Biagioli
President, WTCO

Enclosures

Cc: Wisconsin Congressional Delegation

APPENDIX A

WTCO Member List

1. **Appleton Area School District**
2. **Brookfield, City of**
3. **Brown County**
4. **Chippewa County**
5. **Chippewa Falls School District**
6. **Door County**
7. **Eau Claire Area Schools**
8. **Eau Claire County**
9. **Eau Claire, City of**
10. **Fond du Lac County**
11. **Fond du Lac School District**
12. **Fond du Lac, City of**
13. **Hales Corners, Village of**
14. **Kenosha, City of**
15. **Kenosha County**
16. **Kewaunee County**
17. **Manitowoc Public School District**
18. **Menomonee Falls, Village of**
19. **Ozaukee County**
20. **Racine County**
21. **River Falls, City of**
22. **Sheboygan Area School District**

23. Shorewood Hills, Village of

24. St. Francis, City of

25. Stevens Point, City of

26. Waukesha County

27. Wausau, City of

28. West Bend Schools

APPENDIX B

Claims Summary

Local Government	Total Damages Based on Actual Invoices Audited	Total Damages Based on Life of Contract	Damages Trebled
Brookfield, City of	\$4,325.75	\$13,304.13	\$39,912.69
Brown County	\$336,524.58	\$572,994.43	\$1,718,983.29
Chippewa County	\$907.76	\$7,780.80	\$23,342.40
Chippewa Falls School District	\$5,345.18	\$5,345.18	
Eau Claire County	\$106,556.95	\$228,722.15	\$686,166.45
Eau Claire Area Schools	\$33,180.50		\$99,541.50
Fond du Lac County	\$47,539.05	\$98,285.85	\$294,857.55
Fond du Lac Schools	\$9,804.37	\$56,891.03	\$170,673.09
Fond du Lac, City of	\$13,677.54	\$13,677.54	\$41,032.62
Kenosha County	\$317,351.15	\$317,351.15	\$952,053.45
Kenosha, City of	\$118,725.98	\$173,303.10	\$519,909.30
Manitowoc Public School District	To Be Provided	To Be Provided	To Be Provided
River Falls, City of	\$1,565.83	\$1,565.83	\$4,697.49
St. Francis, City of	\$1,266.30	\$1,266.30	
Waukesha County	\$769,650.32	\$769,650.32	\$2,308,950.96
West Bend Schools	\$80,720.45	\$119,837.43	\$359,512.29
Total	\$1,903,728.16	\$2,490,929.79	\$7,556,295.63

APPENDIX C

COMMUNICATIONS INVOLVING WTCO REQUESTS FOR A MEETING WITH SBC

Timeline of Communications between WTCO and SBC

Summer 2004	Attempts made by WTCO General Counsel Charles C. Mulcahy, through an intermediary, to arrange an informal meeting with SBC President Paul La Schiazza to discuss WTCO concerns. SBC & PRESIDENT La SCHIAZZA REFUSE TO MEET WITH WTCO.
October 21, 2004:	Phone Call from Mr. Mulcahy to SBC President La Schiazza requesting a meeting. SBC & PRESIDENT La SCHIAZZA REFUSE TO MEET WITH WTCO.
October 22, 2004:	Informal meeting in the hallway at the WPUI Conference in Madison, Wisconsin between WTCO President Biagioli, General Counsel Mulcahy, Attorney Andrew Schlidt, and SBC Attorney Steve Beck. Mr. Mulcahy explains the WTCO organization and requests Mr. Beck arrange a meeting with SBC officials. SBC REFUSES TO MEET WITH WTCO.
November 2004:	Intermediary contacts SBC President La Schiazza and suggests an informal meeting with WTCO. SBC & PRESIDENT La SCHIAZZA REFUSE TO MEET WITH WTCO.
January 26, 2005:	Letter from WTCO President Biagioli to SBC President La Schiazza, requesting a meeting and enclosing a courtesy, advanced copy of the Request for Information ("RFI"), concerning future telecommunications business opportunities with WTCO. SBC & PRESIDENT La SCHIAZZA REFUSE TO MEET WITH WTCO.
January 28, 2005:	RFI formally submitted to telecommunications providers, including SBC.
February 2, 2005:	Response letter from Randall Pickering of SBC to WTCO President Biagioli requesting more information about WTCO before it agrees to any meeting with "appropriate SBC Wisconsin representatives."
February 10, 2005:	RFI Vendor informational meeting held with telecommunications providers. SBC System Engineer Richard Glick attends. WTCO officials indicate they want to meet with SBC. SBC REFUSES TO MEET WITH WTCO.

February 11, 2005: Letter from Charles C. Mulcahy to Randall Pickering providing the information required by Mr. Pickering in his letter of February 2, 2005. Mr. Mulcahy requests Mr. Pickering contact him to schedule a meeting. Mr. Pickering does not reply.

SBC REFUSES TO MEET WITH WTCO.

February 24, 2005: Mr. Mulcahy sends an email communication to Randall Pickering requesting a meeting with him and President La Schiazza at their "earliest convenience." Mr. Mulcahy requests Mr. Pickering respond by March 4, 2005.

SBC & PRESIDENT La SCHIAZZA REFUSE TO MEET WITH WTCO.

March 1, 2005: SBC, WITHOUT EVER MEETING WITH WTCO LOCAL GOVERNMENT CUSTOMERS, ASSIGNS THE LOCAL GOVERNMENT CLAIMS OF WTCO TO SBC OUTSIDE COUNSEL DAN FLAHERTY, WHO THEN RESPONDS UPON BEHALF OF SBC.

SBC OUTSIDE COUNSEL FLAHERTY ADVISES, "SBC WILL NOT NEGOTIATE WITH WTCO ON A CONSORTIUM BASIS WITH RESPECT TO ANY INDIVIDUAL CUSTOMER'S BILLINGS OR PRICING ISSUES." SBC OUTSIDE COUNSEL FLAHERTY REQUESTS ADDITIONAL INFORMATION CONCERNING THE CLAIMS, DESPITE THE SBC WISCONSIN POLICY OF PROVIDING THIS INVESTIGATION AND AUDITING SERVICE TO ITS CUSTOMERS FREE OF CHARGE.

SBC & PRESIDENT La SCHIAZZA REFUSE TO MEET WITH WTCO.

March 2, 2005: Mr. Mulcahy acknowledges receipt of the March 1, 2005 letter of SBC Outside Counsel Flaherty.

April 5, 2005 WTCO President Biagioli sends a letter to SBC President La Schiazza raising concerns that SBC has denied all of his and WTCO's requests for an in-person meeting to discuss the concerns of the WTCO local government members. WTCO President Biagioli raises concerns about the hostile tone of the letter of SBC Outside Counsel Flaherty. President Biagioli further advises that the WTCO local government members want to pursue a conciliatory process with SBC to achieve a negotiated solution. President Biagioli encloses a suggested "Issues and Opportunities" procedural plan to facilitate a good faith negotiations process. President Biagioli again requests a formal meeting to discuss the concerns of the WTCO local government members. President Biagioli requests a response by April 15, 2005 to schedule a formal meeting to discuss the "Issues and Opportunities" procedural plan, as well as the various billing and related concerns of WTCO's members.

SBC & PRESIDENT La SCHIAZZA REFUSE TO MEET WITH WTCO.

April 15, 2005 SBC Outside Counsel Flaherty sends a letter to Mr. Mulcahy advising that additional SBC conditions must be met before any meeting can be scheduled. Mr. Flaherty continues to demand additional information and documentation detailing the "significant billing errors," despite the established SBC Wisconsin

policy to provide its investigation and auditing services to its customers free of charge. Mr. Flaherty again objects to collective discussions with WTCO, on behalf of its local government members.

SBC REFUSES TO MEET WITH WTCO.

April 18, 2005

Letter from WTCO President Biagioli to SBC President La Schiazza advising that since Fall 2004 President Biagioli had "attempted to arrange a face-to-face, one-on-one meeting" with President La Schiazza to discuss the situation. President Biagioli again requests President La Schiazza reconsider his position in this matter and contact President Biagioli to arrange a meeting.

SBC & PRESIDENT La SCHIAZZA REFUSE TO MEET WITH WTCO.

April 28, 2005

SBC President La Schiazza sends a letter to WTCO President Biagioli advising that he will not meet with WTCO, "until our earlier requests have been addressed." President La Schiazza again requests information concerning "significant billing errors," despite SBC corporate policy, which, "provides its investigation and auditing service to its customers free of charge." President La Schiazza directs WTCO and its local government members who are SBC customers to deal directly with SBC outside legal counsel and not with Mr. La Schiazza, "or any other lay representative of SBC Wisconsin."

SBC & PRESIDENT La SCHIAZZA REFUSE TO MEET WITH WTCO.

May 2, 2005

WTCO President Biagioli sends a letter to SBC President La Schiazza identifying each of the WTCO local government units with claims involving SBC. Enclosed with the letter are signed copies of the Member Services Agreements between WTCO and each of these local government units expressly authorizing WTCO and Whyte Hirschboeck Dudek S.C. to act on each governments behalf with SBC. President Biagioli again requests a meeting with President La Schiazza to "discuss the various claims and concerns of these local government units." President Biagioli further states, "I am willing to meet with you at any reasonable time, one-on-one, to discuss the situation." President Biagioli again enclosed the "Issues and Opportunities" procedural plan for WTCO and SBC to facilitate a good faith negotiations process. President Biagioli indicates he has received no response to this potential plan to pursue a voluntary, mutually acceptable settlement. President Biagioli asks President La Schiazza to review this plan and respond as to "whether you are interested in pursuing this collaborative approach." President Biagioli requests a response on or before Monday, May 9, 2005.

SBC & PRESIDENT La SCHIAZZA REFUSE TO MEET WITH WTCO.

May 4, 2005

WTCO President Biagioli sends an additional communication to SBC President La Schiazza enclosing a copy of the Member Services Agreement between WTCO and Kenosha County. President Biagioli again requests a meeting with President La Schiazza.

SBC & PRESIDENT La SCHIAZZA REFUSE TO MEET WITH WTCO.

May 13, 2005

SBC President La Schiazza sends a response letter to WTCO President Biagioli indicating the information contained in the Member Services Agreement is insufficient and that SBC Wisconsin will not meet with WTCO. President La Schiazza lays the foundation for any possible meeting with WTCO:

“In order to meet with WTCO, SBC Wisconsin will require from each WTCO member a Letter of Authorization (“LOA”) of the kind referenced in Section 4(e)(iii) of the Member Services Agreement.

President La Schiazza again requests information on “significant billing errors,” as the required first step in the process. President La Schiazza then makes a telling admission in his communication:

“At the customer’s request, SBC Wisconsin will investigate and audit the customer’s accounts for any billing errors that require adjustment. In the event SBC Wisconsin discovers any errors, SBC Wisconsin will credit the customer’s account for the full amount of the adjustment. SBC Wisconsin provides its investigation and auditing services to its customers free of charge.”

Despite this established SBC Wisconsin policy, President La Schiazza continues to require WTCO provide additional information beyond the significant information WTCO already provided.

SBC & PRESIDENT La SCHIAZZA REFUSE TO MEET WITH WTCO.

June 6, 2005

Mr. Mulcahy finalizes the response letter to SBC Outside Counsel Flaherty enclosing the SBC required demand and authorization letters prepared by individual local government units that are members of WTCO, detailing their claims against SBC and authorizing SBC to release information to WTCO and WTCO’s legal counsel, Whyte Hirschboeck Dudek. This letter, which includes specific detail on claims of WTCO members, is hand-delivered by Mr. Mulcahy to SBC Outside Counsel Flaherty on June 7, 2005. WTCO presumes SBC Wisconsin, with nearly nine months of time to prepare, and recognizing the SBC Wisconsin policy of providing its investigation and auditing services to its customers free of charge, will respond in a timely manner. WTCO requests this information be provided by June 14, 2005. WTCO again requests a meeting.

SBC & PRESIDENT LA SCHIAZZA REFUSE TO MEET WITH WTCO.

June 14, 2005

SBC Outside Counsel Flaherty acknowledges receipt of the June 6, 2005 correspondence, including the detailed listing of the specific claims. SBC Outside Counsel Flaherty indicates SBC Wisconsin is not in a position to respond by June 14, 2005. SBC Outside Counsel Flaherty advises SBC Wisconsin “will respond to your letter and address the issues raised therein after it has processed the information.”

SBC & PRESIDENT La SCHIAZZA REFUSE TO MEET WITH WTCO.

June 16, 2005

Mr. Mulcahy acknowledges the letter of SBC Counsel Flaherty. On behalf of WTCO President Biagioli and the entire WTCO organization of local

government units, Mr. Mulcahy again requests a meeting with President La Schiazza. The letter indicates:

“WTCO members are or were customers of SBC. WTCO and its members respectfully request that SBC treat them as customers. When a customer requests a meeting with a service provider, such a meeting is customarily scheduled on an expedited basis, particularly if the nature and extent of the meeting request involves serious financial matters. We again request this meeting.”

SBC & PRESIDENT La SCHIAZZA REFUSE TO MEET WITH WTCO.

June 24, 2005 WTCO President Biagioli sends a letter to SBC President La Schiazza requesting SBC investigate and audit its records of its WTCO local government member customers, per established SBC policy, free of charge. President Biagioli again requests a meeting with President La Schiazza.

SBC & PRESIDENT La SCHIAZZA REFUSE TO MEET WITH WTCO.

June 27, 2005 SBC Outside Counsel Flaherty sends a letter to Mr. Mulcahy advising that SBC President La Schiazza will not meet with Mr. Mulcahy “*or any other representative of WTCO.*”

SBC & PRESIDENT La SCHIAZZA REFUSE TO MEET WITH WTCO.

June 29, 2005 Mr. Mulcahy contacts SBC Outside Counsel Flaherty to advise when SBC will respond to the claims made in the documents dated June 6, 2005. Mr. Mulcahy also repeats the request of WTCO President Biagioli to SBC President La Schiazza for an investigation and audit of the records of the WTCO local government members involved in the claims. Mr. Mulcahy again requests a WTCO meeting with President La Schiazza.

SBC & PRESIDENT La SCHIAZZA REFUSE TO MEET WITH WTCO.

THROUGHOUT THIS PROCESS, SBC PRESIDENT PAUL LA SCHIAZZA, AND ALL OTHER REPRESENTATIVES OF SBC, HAVE NOT COMMUNICATED WITH WTCO PRESIDENT MIKE BIAGIOLI, WTCO GENERAL COUNSEL CHARLES C. MULCAHY, OR ANY OTHER WTCO REPRESENTATIVES TO SCHEDULE A MEETING TO DISCUSS THE SBC / WTCO PROBLEM.

FOR APPROXIMATELY ONE YEAR, WTCO HAS REQUESTED A MEETING WITH SBC. DESPITE THE CUSTOMER AND CONTRACTUAL RELATIONSHIP BETWEEN SBC AND ITS WTCO LOCAL GOVERNMENT MEMBERS, SBC CONTINUES ITS REFUSAL TO MEET WITH WTCO CONCERNING THESE SERIOUS PROBLEMS.

ONLY A MONOPOLY SUCH AS SBC WOULD PURSUE THIS TYPE OF CUSTOMER ALIENATION.